

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
24.150.401 fees, 24.150.501 examination) AND ADOPTION
pass/fail point, 24.150.503 traineeship)
requirements and standards, 24.150.510)
transactional document requirements -)
form and content, and 24.150.2202)
exceptions, and the adoption of NEW)
RULE I fee abatement)

TO: All Concerned Persons

1. On February 8, 2007, the Board of Hearing Aid Dispensers (board) published MAR Notice No. 24-150-35 regarding the proposed amendment and adoption of the above-stated rules, at page 175 of the 2007 Montana Administrative Register, issue no. 3.

2. On March 5, 2007, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the March 9, 2007, deadline.

3. The board has thoroughly considered the comments and testimony received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One commenter favored the proposed fee increases.

RESPONSE 1: The board acknowledges the comment.

COMMENT 2: One commenter stated that the fee increase amount is inappropriate and that the legislative mandate of self-sufficiency is not working well for the board. The commenter suggested the board consider merging with another board or transferring the board's function to a consumer protection department.

RESPONSE 2: The board has projected a budget shortfall in FY 2007-2008 if fees are not increased and although unfortunate, the fee increases are appropriate. The board agrees that fiscal self-sufficiency is difficult for a board with relatively few licensees. The board will continue to monitor its expenses, be fiscally responsible, and explore all options including those suggested by the commenter if necessary.

COMMENT 3: One commenter stated that the fee increase of a couple of years ago was acceptable as the fees hadn't been raised in many years, but questioned the justification for this fee increase. The commenter acknowledged the large number of complaints handled by the board and their costs to the board and suggested there

must be other ways to manage board costs instead of raising licensing fees for everyone. The commenter asserted that high fees will drive people from the profession.

RESPONSE 3: The board has determined that the fee increases are necessary to meet operational expenses. The board is statutorily mandated to maintain fees that are commensurate with costs. The board is not authorized to assess discipline costs against the disciplined licensees and so those costs are borne by all licensees. The board will continue to be fiscally responsible in ensuring that qualified individuals are licensed and the public has access to safe and appropriate hearing aid dispensers.

COMMENT 4: One commenter had not heard of the proposed fee increases until March 1, 2007, and objected to any increase because Montana fees are expensive compared to license fees elsewhere.

RESPONSE 4: The Notice of Public Hearing on Proposed Amendment and Adoption (notice) of rules was posted on the board's web site on February 2, 2007. The notice was mailed to all board licensees on February 5, 2007 and was published on February 8, 2007, in the Montana Administrative Register. The public hearing was conducted March 5, 2007, and comments were received until 5:00 p.m. on March 9, 2007. The board met on March 15, 2007, and took action to amend the fees as proposed. The board is statutorily obligated to ensure fees are commensurate with board costs and has projected a 2007-2008 budget shortfall if fees are not increased. The board notes that comparing fees between states can be misleading because the number of licensed dispensers varies from state to state and, in many states, hearing aid dispensers, audiologists, and speech-language pathologists are regulated by a single board resulting in more board licensees and lower fees.

COMMENT 5: Several commenters objected to requiring audiologists to be dually licensed as hearing aid dispensers in order to dispense hearing aids and to paying fees for two licenses.

RESPONSE 5: In order to sell, dispense, or fit hearing aids in this state, an individual is required to hold a hearing aid dispenser license irrespective of any other professional license an individual may have.

COMMENT 6: One commenter who does not dispense hearing aids for profit and whose employer does not pay her state license fees, opposed the fee increase. The commenter suggested no fee increases for audiologists or for the board to waive the license fee for audiologists.

RESPONSE 6: In order to sell, dispense, or fit hearing aids or parts, attachments, or accessories of the instrument or device in this state, an individual is required to hold a hearing aid dispenser license. The board is statutorily required to ensure that fees are commensurate with board costs and the board has no authority to waive fees for

anyone, including those persons who are dually licensed as hearing aid dispensers and audiologists. The board will continue to review its fee structuring and expenses in order to make responsible decisions within budgetary and legal constraints.

4. The board has amended ARM 24.150.401, 24.150.501, 24.150.503, 24.150.510, and 24.150.2202 exactly as proposed.

5. The board has adopted NEW RULE I (24.150.404) exactly as proposed.

BOARD OF HEARING AID DISPENSERS
STEVE WILSON, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 2, 2007